

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR
BENCH, JAIPUR

Assistant Commissioner, Commercial Taxes

Versus

M/s. Electrolux Kelvinator Limited

S.B. SALES TAX REVISION PETITION NO.41/2006

DATE OF ORDER : 03/10/2006

Hon'ble Shri Justice Ajay Rastogi

Shri R.B. Mathur, for petitioner

BY THE COURT:

Instant revision petition has been filed against the order passed by the Tax Board dated 31st August, 2005 whereby the appeal preferred by the Revenue has been dismissed only on the ground that the proceedings were initiated against the provisional assessment made by the competent Assessing Authority and during pendency the proceedings initiated against the provisional assessment, final assessment order was made by the authority under the Act and in this view of the matter, the appeal preferred by the Revenue against the order of provisional assessment has become infructuous.

Counsel for petitioner submits that the issue, which raised, was considered by the authority while making provisional assessment and even if the final assessment has been made that in no manner will absolve from the question of examining the provisional assessment order passed by the competent authority.

In my opinion, once the final assessment has been made, the finding recorded in provisional assessment stands emerged, I do not find any error committed by the

Board in passing the order impugned in holding the appeal become infructuous in view of final assessment made by the Assessing Authority. Even otherwise, no legal question is involved in the present revision petition requires adjudication.

Consequently, the revision petition fails and is hereby dismissed. However, it is made clear that the department is free to avail remedy, if there is any, available under law.

[Ajay Rastogi], J.

FRBOHRA, JR.P.A.